App F IX-1

Previous References

1935-36
(ml)

File No 26 - 35

Serial Nos 6, 7, 8, 9
15, + 16

Letter References

ml 26-35 11, 12, 20, 22, 24
ml 61-35 23, 24, 35
ml 222-35 (5-)
ml 31-35 25 5 10 +14
ml 61-35, 829

GENERAL AND REVENUE SECRETARIAT.

Serial Nos 6 (Sup)

Part B for October 1935

SUBJECT

Appeal petition from Mr Mohamed Sait Vice President of the Mysore City Mnl Council against the order of the President disqualifying him from continuing as a member of the Municipal Council

1b) No L 2229 of 24 9 35

To, The President city Mnl Council Mysore

To No L 2230 of 24 9 35 Copy to Mr Mohamed Sait for info

Sets aside the order of the President, Mysore city Mnl Council in the above matter

30.10.35

WD 03607—GPB—22 500—2-8 35

Municipal councillors - Mysore city 1079, 1094, 1095. Municipalit

General and Revenue Secretariat | [App F III-2

Md File No 26 of 1935

6. Letter no. Lg T. 5747 dated 31.9.35 from the President city Mpal Mysore stating that the offices of two Council hons have fallen Vacant as they incurred disability from continuing to be Councillors under Sec 12 of the Mysore City municipalities Rgn and that action is being taken for filling up the Vacan

u/D II

7 Petition dated 5.9.35 from Mr Mohamed Sait, Mysore appealing against the order of the President City Mpal Mysore declaring that he has been disabled from continuing to be a councillor and the office became Vacant - etc.

p in D II

8 Petition dated 5.9.35 from Mr Mohamed Saint, Mysore praying that a stay order may be issued to the President City Mpal Mysore, not to give effect to his order, pending disposal of the appeal by Court.

p.u. D. III

C

B

1 The Md Advocate's opinion and the Revenue officer's report, explaining the circumstances under which the councillors were disabled to continue as such.

2 under Cl (e) of Sub Sec (2) of Sec 12 of the Mysore City municipalities Rgn, any Councillor who fails to pay any arrears of any kind due by him to the Mpal within three

NOTE—Contn Sheet

2

L 1079, 1094, 1095

File No 26 of 1935

General and Revenue Secretariat

months after a special notice in this behalf has been served upon him, he shall be disabled from continuing to be a Councillor and his office shall become vacant.

3 Under Sec 12(3) ibid Rgn, if any question or dispute arises whether the vacancy has occurred under this section the orders of Govt shall be final for the purpose of deciding such question or dispute.

4 The appeal has been preferred under this section. Mr Mohamad Said prays that the connected records may be called for and justice done to him. A

5 A Stay order also has been prayed for pending disposal of the appeal. B

6 Submitted for orders

A & B are for orders

5-9-35

7 The contention of Mr Mahamed Said that the special notice was not served on him is dealt with in the note of the Municipal Advocate. His liability to pay the dues not paid by him is also discussed in that note. The correctness of the opinion of the Municipal Advocate is submitted by Mr Md Said. The records of the case may if necessary be called for.

Chief Secy) 5/9

Municipal Councillors Mysore City

3

✓1079, 1094, 1095

General and Revenue Secretariat — File No 26 of 1935 — [App F III-2

DEWAN'S OFFICE
6 SEPT 1935
No. 6 02

8) A report with the connected records may be called for urgently -

9) As regards the question of stay order, it may be considered after the records are received & examined

Dewan)

6/9

6/9

10) 6-9-35

Dewans order -

11) A stay order may be issued

7.9.35

12) Please issue Rule Nisi returnable forthwith

9 Issue such Rule Nisi returnable forthwith to the City Municipal Council Mysore. Request him to submit a report with the connected records by registered post by return post and to stay all further proceedings pending disposal of the appeal by Court

NOTE—Contn Sheet

9/9

File No of 193

General and Revenue Secretariat

From the President Cuttack, Impn
no 21 Dt 9-5-35
Forwards his report on the appeal
petition with the connected records

(2) The President's report deals
Categorically with the several points raised in
the appeal petition

(3) The main question for consideration
is whether the special notice was only served on Mr
Mahanti Sait under Sec 185 of the Cy Municipal Regn.
Mr Md Sait has stated that he received no such
notice, but the President has held, in consultation
with the Municipal Advocate, that the notice was
duly served, as it has been acknowledged by
one 'A R' The peon in Mr Sait's house thereby
told the Municipal Server that he could not
get access to Mr Sait and undertaken to take the
notice to him inside, the Server gave the notice
to the peon who took it in and returned it after
some time with the acknt of 'A R'

(4) This is stated to satisfy the
requirement of the section referred to above, which
lays down that if the addressee is not found, the
notice maybe served by tendering it to some adult
male member or servant of his family. The
words 'if such person is not found' are interpreted
as 'not being got at' or 'found access to' and
since in this case the peon said that Mr Sait

Serial No

could not be seen as he was inside with Shosha; it is taken that he was not found and that the service on 'A.O.' is in order. It is not clear if this interpretation is correct, as it might be argued that Mr Sait could have been found if the server had waited for some time till he came out or that the notice could have been delivered, when in the Municipal Office, where he could easily be found since he was Vice President.

16) Who 'A.O.' is whether he is an adult male member of the family or a servant has not also been ascertained

17) That Mr Mahamed Sait had knowledge of the issue of the notice is sought to be proved from the following facts.—

(i) That Mr Sait asked the Revenue Officer at the Mess when he met him a few days after the alleged service of the notice as to why he signed the notice.

(ii) That two days before the expiry of the period of 3 months allowed for payment of the dues he enquired about the payment made by his brother and any balance that were remaining, and

(iii) That payment of some items "under protest"

NOTE—Contn Sheet

WD 03594—GPB—30,000—13-7 35

Municipal Councillors - Disqualification
1079, 1079 & 1080/35

File No 26 of 1935 — General and Revenue Secretariat

showed his anxiety to avoid the consequences of his default. Why if he had such anxiety, he did not pay the remaining sum also under protest is not stated

12) Even assuming that knowledge of the Special notice can be imputed to Sait in the circumstances stated, who has to be considered whether this can be taken as equivalent to the service of the notice, which held, on a strict interpretation of the section, that the notice in the case was not duly served on him

13) The President has stayed further proceedings for filling up the vacancy, as ordered by Govt.

14) For orders. The Law Section may perhaps be consulted.

Chiefsec) 10/11/1079

15) Yes - as suggested

10 SEP 1935

12/9

Lawsec) 10/11/1079

16) The disqualification under Sec 12 (2) (c) of the City M. Regn is caused on the following conditions being satisfied —

a) There must be arrears legally due to the M'C' by the Councillor concerned

b) In respect of such arrears, a special notice under the section must have been served on the Councillor

c) Within 3 months of such service, there must have been a failure to pay the arrears due

23) In this case, the two important contentions raised by mr. Mahomed Sait against the President's order are that there has been no proper service of the special notice and that the arrears still claimed are not legally due by him.

24) As regards the service of the special notice, it is a pity that the servers statement was not taken immediately it was found that the service was not a personal service but one under cl (b) of sec 185 (1) of the City Mts Regn. All the evidence in favour of due service is collected after mr Sait in his letter of 24th august has denied having received the special notice. Apart from this, in this case there is no information as to who it is that actually received the notice, because there is not evidence to show wh "A.R." is. Seeing that the Councillor concerned was the Vice President of

NOTE—Contn Sheet

of the Municipality, it has not been made out that personal service was impossible or in any way difficult. The decision of the Calcutta High Court reported in 30 I C 64 and cited by the Municipal advocate is about service under the Civil Procedure Code and that too on a purdanashin lady. It is obvious from a perusal of that decision that it cannot be made applicate in the case of service ~~of a person like one mentioned in~~ of a special notice under the Municipal Regulation on a person like our Mahomed Sait in the present case.

It is contended by the President that proper service may be presumed because one can infer from the conduct of the Councillor concerned that he had knowledge of the notice. I have carefully considered this aspect but regret I cannot find anything in the conduct from which such an irresistable inference can be drawn.

As regards the 2nd pt as to whether the arrears claimed & not paid are legally due to the M C C, beyond stating

that they are not so due, nor Mahomed Sait does not explain why and under what circumstances he makes out that the arrears are not due by him. In nor Sattar Saib's letter of 20th august, the claim of Rs 23 4 0 on Nazrabad is contested on the ground that the land had been sold & and the fact reported to the Municipal office long ago. This is denied by the President who cites sec 77 of the M.L Regn to show that in spite of the sale nor M Sait continues liable for the taxes in question. It is not however clear if the bill & the notice of demand in respect of this item as well as the one for water supply to No: 481 Lashkar occupied by the Imami Hospital, were duly sent to nor Mahomed Sait as prescribed in sec 95 of the City M.L Regn. If they were not so sent, I think sec 77 or rule 13 of the Water supply Rules cannot help this Case. However this point has not been raised by either of the parties concerned and need not, therefore, be pursued further.

2) In any case, on the ground of want of proper service of the special notice, nor Mahomed Sait may be held to have incurred no disqualification under

NOTE—Contn Sheet

File No of 193

General and Revenue Secretariat

Sec 12 (2) (e) - This is a penal provision and has to be strictly construed in favour of the Councillor.

Chief Secy
thro' asst Secy

BNR
13/9/35

65
Law
PH
16/9/35

29 I agree with the opinion recorded by the Assistant Secretary, L.S.G.• and the Assistant Secretary, Law Department. The petitioner contends that he has not been disabled from continuing to be a Councillor is that the special notice under Section 12 of the Municipal Regulation has not been served on him. According to the statement of Ghouse Mohideen, Octroi Peon, who is alleged to have served the notice, Mr. Mahomed Sait was at home at the time when he called. Only he was not available readily at that moment as he was inside the zenana. Ghouse Mohideen has stated that he gave the notice to a servant to be taken inside and delivered to Mr. Mahomed Sait. The servant took the delivery book and the notice inside the house, and returned saying that he had given the notice to Mr. Mahomed Sait. It will be noticed that the delivery book contains the initials "A.R." which obviously are not those of Mr. Mahomed Sait. Who exactly the individual is to whom the notice was given is not clear. Mr. Mahomed Sait has stated that he did not get it. Neither do the records disclose the name or the identity of the servant who received the notice. These are matters which should ordinarily have been enquired into and cleared up when Mr. Mahomed Sait wrote to the Revenue Officer on the 24th August that the special notice to which reference was made had not been received by him. A few statements were taken, and the Municipal Advocate was consulted but Mr.Mahomed Sait

as not given an opportunity to face the facts so licited. Mr. Mahomed Sait may not be strictly ntitled to such a notice but when what he stated onflicted so obviously with the version given by thers, it was necessary, as much for the purpose f finding out the truth as for fairness to the arty affected, to have done so.

3. The Municipal President refers to certain circumstances from which it could be inferred that r. Mahomed Sait had knowledge of the special notice. n respect of this it may be pointed out that what he law requires is the service of the notice in a rescribed manner. Mere knowledge of the service annot, it seems to me, dispense with the necessity f proper service of the notice. There is further he difficulty to determine at what time knowledge of he notice was received by the defaulter. The tatement of the late Revenue Officer does not mention the date on which Mr. Mahomed Sait spoke to him bout the special notice.

4. The President's letter gives categorical answers o the points raised in the Appeal Petition. He oints out that in a letter written on the 20th ugust 1935 by the petitioner's brother to the evenue Officer, he gave details of the amounts due o the Municipality and the amounts that he had paid. hese details could not have been known except from he special notice. A perusal of the special notice hows that no such details were given in it. Further he matter to be determined now is whether Mr. Mahomed

Serial No

Sait had knowledge of the notice. That certainly cannot be determined by saying that his brother had knowledge of the notice. The President observes that Mr. Sattar Sait made a payment of two sums amounting to Rs. 41-8-0 under protest, being apparently anxious to avert certain consequences that he knew to be imminent. It might be answered in reply to this that if Mr. Sattar Sait apprehended serious consequences if he did not pay the full amount as per demand, he was not likely to risk any trouble by keeping an arrear of Rs.153-4-0 which was only a fraction of the amount that he actually paid. Against a demand of Rs.694-9-3, he actually paid Rs. 541-5-3.

32) There is a statement given by Mr. Siddappa, Revenue Officer which has been recorded on the day that the President passed his order declaring that the petitioner had lost his seat viz., that Mr.Mahomed Sait once questioned him why he had sent a special notice. This is one man's statement against that of another and the party who has been affected by such statement has had no opportunity to meet it.

33) Under Section 185, Clause 2 of the Municipal Regulation, according to which service of the special notice in this case is alleged to have been made, the procedure prescribed therein may be adopted only when the party cannot be found. According to the Civil Procedure Code which contains similar provisions, service has always to be on the person concerned whenever

NOTE—Contn Sheet

WD 01905—GPB—22 500—12 6-34

Municipal Commissioners - Nyasaland
L 1182

File No 26 of 1935 | General and Revenue Secretariat

practicable and it is only when the party cannot be found after using all reasonable diligence that substituted service may be adopted. In the present case the party was known to be present in his house and it was not impracticable to serve the notice on him. Again it has not been elicited that the person who took the notice is an adult male member of the family. In the foregoing circumstances it is difficult to hold that the special notice has been served as required by law.

The petn was Vice-Pres of the Municipality - it should certainly not have been difficult for the Municipal authorities to have found the petr on his office to attend the Mtg

Dismissed

It may also be submitted that the Members of Council for an expression of their views in the matter

DEWAN'S OFFICE 16 SEPT 1935 No. 928

OFFICE OF THE FIRST MEMBER OF COUNCIL 17 SEPT 1935 No. 2160

1st M
2nd My

I agree with the above remarks

I agree also

SIR

Municipal Committee – Inspection
1182 1182

General and Revenue Secretariat | File No 26 of 193 5 | [App F. III—2

Serial No	
2009	Dewan) A 19.9 Asst 19/9 35) I agree, too. Order may issue accordingly & papers sent to the Sec' for information MI 19-9-35. 39) Draft A 20/9 Draft q-o sent 40) Chiefsec) Asst 20/9 41) Fair Draft A 22-9 Asst 23/9 42) Typed draft sent. Chiefsec) Asst 23/9 43) Draft for approval Dewan) A 23.9.35 Asst 23/9 44) MI 23-9-35 45) Issue & put up a draft A 24/9 46)

23-9-1935

SECTION
SEP 1935
REV SECTT.

NOTE—Contn Sheet

WD 01536—GPB—7,500—5 4 34

16 Municipal councillors - Mysore city

Govt File No 1182/1 26 of 1935		General and Revenue Secretariat

Govt. note 2220 dt 24.9.35. to present city mcl mysore. Directs mat undertake circumstances stated the order quashed be set aside. 16

note 2230 dt 24.9.35 copy to Mr Mohamed Said for information

47) D.S.N is put up for approval (Refg para 45)

25/9/35 — MM 25/9

chief secy) 48) MM 25/9

Dewan) 49) 26/9 MM 25/9

50) 25-9-35

2411

Submitted to His Highness

57 These papers relate to the petition of Mr. Mahomed Sait, Municipal Councillor and Vice-President of the Mysore City Municipality, appealing against the order of the President, City Municipal Council, Mysore, declaring him to have been disabled from continuing as a Municipal Councillor on account of non-payment of certain taxes alleged to be due by him in accordance with a special notice issued to him in this behalf.

52 The connected records were called for from the President and perused. On an examination of the records, it was found that the special notice was not served upon Mr. Mahomed Sait as required by law, and it was accordingly held that Mr Mahomed Sait had not incurred the disability mentioned in Section 12 (2) (e) of the City Municipalities Regulation.

53 The Members of Council and myself agreed with the above view and orders have been issued setting aside the President's order.

51 The papers are submitted for the gracious perusal of His Highness.

Mirza M. Ismail

Bangalore, D E W A N.
25th September 1935.

Record of Cases submitted for the Orders of

His Highness the Maharaja

Subject.

Petition of Mr. Mahomed Sait, Municipal Councillor and Vice-President of the Mysore City Municipality, appealing against the order of the President, declaring him to have been disabled from continuing as Municipal Councillor on account of non-payment of certain taxes alleged to be due by him.

58) 28-9-35

155

53) **Order.**

~~KRW~~

27/9/35

30)

General and Revenue
Secretariat

SUBJECT:- 57) Petition of Mr. M.D. Saiah, Municipal Councillor and Vice President, Mysore city Municipality, appealing against the order of the President declaring him to have been disqualified from continuing as Municipal Councillor on account of non-payment of certain taxes alleged to be due by him

( )

31 All urgent or confidential files returned with His Highness orders may in the absence of instructions or indications to the contrary be ordinarily circulated to the Members of Council for perusal after the issue of orders

33 The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members

34 In all other cases the files will first be circulated to the Members of Council at Head quarters and then sent to the Secretariat concerned for the issue of orders

Circulated to Members of Council for perusal of His Highness' orders before/after issue of orders (*Vide Rules* 31 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure)

58) *Chief Secretary to Government*

Through the Secretary to Government,

Department

FIRST MEMBER OF COUNCIL 59) 1/10

SECOND MEMBER OF COUNCIL 60) 1/10

61) Asst Secy, 1 Sec

62) 2-10

NOTE —Contn. sheet

No. 9754
E 3

Office of the President,
City Municipal Council, Mysore.
Dated 3rd September 1935.

GEN. & REV. SEC.
1079
5 SEPT

From

M.A.SREENIVASAN, Esq., B.A.,
PRESIDENT, City Municipal Council,
MYSORE.

4 SEP 1935

To

The Chief Secretary to
the Government of His Highness the Maharaja
of Mysore, BANGALORE.

Sir,

I have the honour to state that at the Council meeting held on 12th March 1935, interpellations were put by certain members as to the number of Councillors who were in arrears and whether Special Notices under Section 12(2)(e) of the Municipalities Regulation had been issued to such Councillors and if not, whether action would be taken to issue such Notices immediately.

Twenty Councillors were reported to be in arrears and Special Notices under Section 12(2)(e) of the Regulation were issued to all of them and served on different dates between 23-5-1935 and 14-6-'35 Of the Councillors in whose cases the time of three months specified in the Special Notices expired by 24th August 1935, all paid up their dues except two elected Councillors -- Messrs.Mohamed Sait (Vice-President) and V.T.Armugam Modaliar. The Revenue Officer reported (copy enclosed) that these two Councillors had only paid a part of the sums due from them. The papers were referred to the Municipal Advocate for examination and opinion, and he gave his opinion (copy of his note is enclosed) that the above mentioned Councillors had incurred disability under Section 12 of the Regulation.

Accordingly a memo No.118 dated 29/30th August 1935 (copy enclosed) to the effect that these two Councillors had incurred the disability from continuing to be Municipal Councillors and that

P.T.O.

Submitted.

Special Notices for arrears served on Municipal Councillors under Section 12 of the Mysore City Municipalities Regulation.

- Municipal-

Special Notices for arrears due were served on 20/Councillors. Most of them have now paid up the arrears due. But, of the Councillors in whose case the period of three months has elapsed, Mr.Mohamed Sait has paid Rs.541-5-3 as noted in the margin against Rs.694-9-3 due and Mr.V.T. Armugam Modaliar has paid Rs.9-0-0 towards flat rate only, against Rs.180-8-0 due from him.

Property tax as per details on the reverse of Mr.Sattar Sait's application dated 20-8-1935	Rs.537-1-9
Sewage Farm dues	Rs. 4-3-6
Total Rs.	541-5-3.

Mr.Sattar Sait, who sent Rs.510-1-9 for Mr.Mohamed Sait on 20-8-1935 states in his application dated 20-8-1935 that the tax due on property No.1. Nazarbad Mohalla is recoverable from Mr.Sajjadalli, to whom the site is said to have been sold. But, in the Demand-register the site is in the name of Mr.Mohamed Sait, and no application has been received under Section 77(1) of the Regulation for the change of Khathe from Mr. Mohamed Sait's name to that of Mr.Sajjadalli (vide statement of the clerks enclosed).

It is also stated in Mr.Mohamed Sait's application that the Ayurvedic and Unani College authorities are responsible for payment of the water tax due on the Unani Hospital building. But, as per Clause 13 of Government Notification No.773-5276 dated 29-6-1912, the owners of the houses are solely responsible for the payment of all charges due under the Water Supply rules relating to Mysore City, and bills have been sent on 23-2-1933, -- 31-10-1933 and 31-1-1934 (vide statement of Water Sectionclerks, enclosed tp the Khathedar Mr.Mohamed Sait for the water dues.

In a subsequent letter dated 24-8-1935 enclosed herewith Mr.Mohamed Sait states that he has not received the Special Notice No.R.T.1080 dated 23-5-1935; but from the statement of the previous Revenue Officer Mr.S.Siddappa and the peon Ghouse Mohiddeen who served the Notice, it will be seen that the Notice was duly served upon him.

Dated 28th August 1935.

Sd.Y.Ramakrishna Rao.
Revenue Officer.

" Copy "

President.

their seats on the Council had become vacant, was issued and duly served on the Councillors concerned.

The offices of these two Councillors and also of the office of the Vice-President having fallen vacant, action is being taken to fill up the same.

I have the honour to be,
Sir,
Your most obedient Servant,

M A Jinnah

~~PRESIDENT~~.

MLN.

Submitted.

Special Notices for arrears served on Municipal Councillors under Section 12 of the Mysore City Municipalities Regulation.

- Municipal-

Special Notices for arrears due were served on 20/Councillors. Most of them have now paid up the arrears due. But, of the Councillors in whose case the period of three months has elapsed, Mr.Mohamed Sait has paid Rs.541-5-3 as noted in the margin against Rs.694-9-3 due and Mr.V.T. Armugam Modaliar has paid Rs.9-0-0 towards flat rate only, against Rs.180-8-0 due from him.

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Dated 28th August 1935.

Sd.Y.Ramakrishna Rao.
Revenue Officer.

" Copy "

President.

Note.

Submitted to the President, City Municipal Council, Mysore in the matter of non-compliance with the Notices issued to them under Section 12(2)(e) of the Regulation by Messrs.V.T.Armugam Modaliar and Mohamed Sait.

Section 12(2)(e) of the Regulation disables Municipal Councillors from continuing in office on failure to pay any arrears of any kind due to the Council within a period of three months after a Special Notice in this behalf.

Mr.Armugam Modaliar has received the Special Notice issued to him on 24-5-1935 and as the arrears due by him have not been paid in full within 24th August 1935 he must be deemed to have incurred the disability imposed by the above provision.

The Notice to Mr.Mohamed Sait has been received and acknowledged by one that has affixed his initials " A.R." on 24th May 1935. Section 185 of the Regulation which lays down the procedure for service of " Every Notice " under the Regulation applies the one in question and it has to be seen whether the service in this case is in conformity with the procedure enjoined therein. The provisions of Section 185 would be complied with if the notice is left with or given to some adult male member or servant of his family in case the person to whom it is by name addressed " is not found ". In the case on hand the serving officer is stated to have gone to the residence of Mr.Mohamed Sait with the notice and tried to " get at " him and when he was unable to get access to Mr.Sait given the notice to a servant who in his turn has given it to the person who has received and initialled " A.R." in token of receipt. If a serving officer attempts to get at and serve the notice personally on the addressee and finds himself unable, for any reason, to obtain access to him, he can be said to have acted legally when he gives it either to an adult male member of the family or a servant thereof. (vide the decision reported in 19 CWN 1231== 30 Ind. cases 64 interpreting the - expression " cannot find the defendant " in O V R 17 C.P.C. similar to the one occurring in Section 185 of the Regulation). It is therefore, submitted that the notice in question can be taken to

P.T.O.

to have been duly served.

The non-payment of the arrears in full is sought to be justified on two grounds. It is said that one item of Rs.23-4-0 has to be recovered from an alleged transferee and that the liability on the part of Mr.Sait in respect of this item has ceased as notice of transfer has been given. Since it is stated to have been ascertained that no such notice has been received and there is no mutation of names in the Khathe, this contention does not seem to have any force. The other contention viz., that the Water charges due in respect of the building in Lashkar Mohalla has to be recovered from the tenant thereof does not also appear to rest on valid grounds. Rule 13 of the rules for the Regulation of Water Supply to Mysore City lays down clearly that the " owners of houses or property shall be solely responsible for the payment of all charges due " and although the option to collect them from the tenant is given to the authorities no owner can claim it as a matter of right. It is therefore clear that the Municipality cannot be required to look to the tenant for payment of water rate and exonerate the owner from all liability.

For the above reasons it is submitted that the contentions raised are not of any avail and that Mr.Sait also has incurred the disability laid down in Section 12.

Respectfully submitted.

Sd.S.Chinnaswamy Setty.
Municipal Advocate.
28th August 1935.

" Copy "

President.

29c

Office of the President,
City Municipal Council, Mysore.
Dated 29th August 1935.

R e a d:-

1. Revenue Officer's report dated 28th August 1935 stating that Messrs.V.T.Armugam Modaliar and Mohamed Sait, Municipal Councillors have not paid up in full the arrears of taxes due from them inspite of Special Notice Nos.R.T.1087 dated 21/23-5-1935 and R.T.No.1080-- dated 21/23rd May 1935 issued to them respectively (along with similar notices to other Councillors in arrears) under Section 12 (2) of the Municipalities Regulation and duly served on them.

2. Note dated 28th August 1935 of Legal opinion of Mr.S.Chinnaswamy Setty, Municipal Advocate, stating that Messrs.V.T.Armugam Mudaliar and Mohamed Sait had incurred disability under Section 12(2)(e) of the Municipalities Regulation from continuing to be Councillors.

118
30-8-35 M e m o.

Special Notices under Section 12 (2) of the Municipalities Regulation were issued to Messrs.V.T.Armugam Mudaliar and Mohamed Sait in respect of the marginally noted arrears due from them and were duly served on them on 24th May 1935.

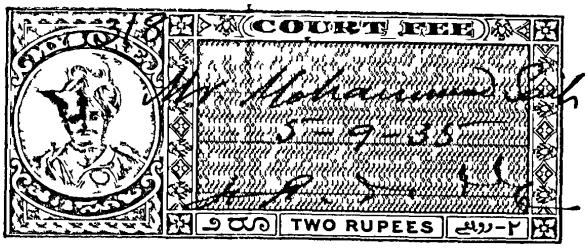
(1) Mr.V.T.Armugam Mudaliar Rs.180-8-0	
(2) Mr.Mohamed Sait .. .. Rs. 694-9-3	

The Revenue Officer's report shows that only a sum of Rs.9-0-0 (Rs.Nine only) had been received uptill ~~now~~ 24th August 1935 from Mr.V.T.Armugam Mudaliar in response to the Special Notice as against Rs.180-8-0 due, and that a total sum of only Rs.541-5-3 had been --- received on behalf of Mr.Mohamed Sait against Rs.694-9-3 up till the date of the report of the Revenue Officer.

The matter has been examined together with the connected records by the Municipal Advocate who has in his note stated that the two Municipal Councillors have in the circumstances, incurred disability under Section 12(2)(e) of the Municipalities Regulation from continuing to be Municipal Councillors.

Under Clause (2)(e) of Section 12 of the Municipalities Regulation, Messrs.V.T.Armugam Mudaliar and Mohamed Sait are accordingly disabled from continuing to be Municipal Councillors, and their offices have --- become vacant.

M S Srinivasan
PRESIDENT.



Before the Government of H.H The Maharaja
of Mysore, Bangalore.

Petitioner:- Mahomed Sait,
Abba Manzil, Abba Road,
Lashkar Mohalla,
Mysore City.

REV SECT
1094
5 SEPT 1935
L. B. G. BRANCH.

Under Section 12 clause 3 of the Regulation VII of 1933, the Petitioner above named respectfully begs leave to appeal against the order of the President of the Mysore City Municipal Council dated 30-8-1935, declaring that the Petitioner has been disabled from continuing to be a Councillor and that this office became vacant for the following reasons, among others, namely,

(1) That he did not incur any disability under Section 12, clause 2 (e) of the Regulation VII of 1933

(2) That he was not given any special notice as required by the Section calling upon him to comply with any demand lawfully due under the Regulation or the Bye laws or Rules thereunder.

(3) That the alleged service of special notice is a matter of proof and there is nothing in the order to show that such a notice was ever served.

(4) That the opinion of the Municipal Advocate upon which the President appears to have acted is itself an err and not sustainable. That the order declaring the petitioner as having incurred a disability and thereby was deprived of this previliges as a Municipal Councillor is entirely an ex-parte one and no opportunity was ever given to the Petitioner to show cause against the same.

(5) That the Petitioner is not legally due any tax

tax to the Mysore City Municipal Council.

(6) That according to practice and procedure observed, the taxes have all along been paid by Abdul Sattar Sait.

(7) That if any mistake arose in the calculation or interpretation, Abdul Sattar Sait usually got the same rectified as soon as he got any instruction from the Municipal Council.

(8) That the President in this particular instance has acted in a manner to prejudice and put in danger the previleges of the Petitioner as an elected Municipal Councillor.

(9) That in any view of the case, the decision of the President cannot be supported.

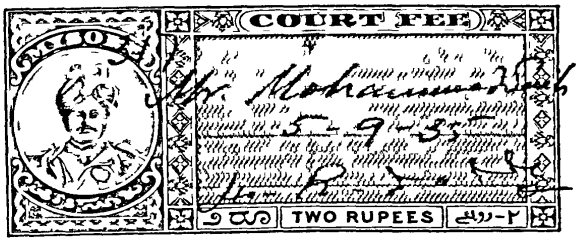
(10) That the Petitioner submits to the kind consideration of the Government that for sometime past, the relationship between the present President and the Petitioner as Vice President of the Mysore City Municipal Council, as officers functioning of the welfare of the Municipality, is somewhat strained.

Whereapon the Petitioner respectfully prays that all papers connected with the order appealed against may be called for, Petitioner heard and justice done to him for which he ever prays.

Mohamed Sait

Petitioner.

Bangalore,
Dated 5th September 1935.



35—

Before the Government of H H The Maharaja of
IN THE COURT OF Mysore, Bangalore

Petition No OF 1935-1936

Petitioner :-
Mohammed Sait } VS {

1 I, the petitioner abovenamed do by these presents, retain Messrs C SESHACHAR B Sc, LL B, and A J KHALEEL B A B L, *Advocates*, Bangalore, to appear and conduct the above case on my behalf to judgment

2 I further empower them to do all necessary acts in the above case, to execute any decree or order that may be passed in my behalf and to receive from the Court all documents, refunds, and all sums of money that I may be entitled to get and grant receipts therefor

3 I jointly or severally also undertake to confirm and ratify all acts done by the said Advocates or by any other Advocate on their behalf

Mohammed Sait

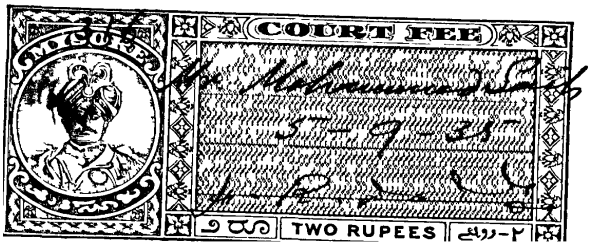
Signature

BANGALORE,
5-9-1935

Accepted
C. Seshachar
A J Khaleel
5-9-35
Advocates

Personally known to me and signed in my presence
C Seshachar

R P Z & P Works, B City



Before the Government of H.H. The Maharaja
of Mysore, B a n g a l o r e.

GEN. & REV SECTT.
1095
5 SEPT 1935

Petitioner:- Mahomed Sait.

The Petitioner above named begs to submit that he has this day filed an appeal against the order of the Mysore City Muncipal Council President declaring the Petitioner as having become disqualified to hold the office of a Muncipal Councillor and thereby the office became vacant.

(2) That the grounds of appeal may be kindly read as part and parcel of this application.

(3) That it is learnt that the President in pursuance of his order depriving the Petitioner of his privileges as a Councillor is arranging to have an election before disposal of the appeal to fill up the vacancy alleged to have been caused in the manner above stated.

(4) That owing to want of good relationship, a matter of much regret, in the interpretation of the duties and responsibilities respecting the Petitioner as its Vice President and the present President of the Muncipality, unnecessary notority appears to have been given to the order in Mysore City for an intended by-election.

(5) That the petitioner submits that there are legally good reasons for vacating the order under appeal and therefore, respectfully prays that it is essential in the administration of justice that the Government may be pleased to stay the carrying into effect the order, pending disposal of this appeal, for which he ever prays.

Mohamed Sait
Petitioner.

Bangalore.
5th September 1935.

Appendix F G–1]

SUBJECT.

Diary No of letter replied to

General and Revenue Secretariat

( )

the *193*

Date of issue 7-9-35

Signed by

List of enclosures

Copied by

Examined by

Immediate

Section ml

File No Z6-35

Serial No 9

No L/1826 Cons2

To

The Protocol officer

Mysore

Sir

With reference to your letter no ST 547 dt 5-9-35, I am directed to forward herewith an appeal petn preferred by Mr Mahamed Saul appealing against your order declaring his seat on the Hill vacant and to request you to furnish a report on the petn along with the connected records. The report may kindly be sent by return of post (Registered)

Pending orders of Govt on the said petn, the proceedings taken to fill up the vacancy may be stayed

Yours

7/9

for

M A SREENIVASAN
PRESIDENT

CITY MUNICIPAL OFFICE,
MYSORE

~~41~~ 41

Urgent 11182 Sept 9th 1935
8 P M

Dear Sir,

I am sending herewith the report & records called for in connection with Mr Mohomed Sait's Appeal petn. for special messenger as the same could not be got ready for despatch in time for Registered post this afternoon & the records are rather bulky and important and trust that

IMMEDIATE.

Conf No 21/Enc 15 and appeal petition & Vakalath

1182 — 43

OFFICE OF THE PRESIDENT,
CITY MUNICIPAL COUNCIL MYSORE

Dated 9th September 1935.

From

M A SREENIVASAN Esq BA
PRESIDENT CITY MUNICIPAL COUNCIL
MYSORE

Mis 26-35-19

To

D. 9. 35

The Chief Secretary
to the Government of His Highness the Maharaja
of Mysore, BANGALORE

Sir,

With reference to your letter No.L 1826-Mi.26-35-9 dated 7th September 1935, calling for a report on the appeal petition presented by Mr.Mohamed Sait regarding the disability incurred by him from continuing as a member of the Mysore City Municipal Council, I have the honour to submit herewith the records noted in the margin in original, and with regard to the several grounds urged in the appeal petition to state as follows.-

* Records.

1. Statement of Notice Server-Ghouse Mohideen.
2. Statement of Mr.S.Siddappa, the then Revenue Officer.
3. Note of the Municipal Advocate.
4. Letter dated 19/20th August 1935 from Mr.A.Sattar Sait
5. Letter dated 22nd August 1935 from Mr.Mohamed Sait.
6. Letter dated 24th August 1935 from Mr.Mohamed Sait
7. Report dated 28th August 1935 from the Revenue Officer.
8. Statement of the Clerks of the Revenue Section.
9. Government Notification No.773-5276 dated 29th June 1912 re Water supply rules to the Mysore City.
10. Statement of the Clerk of Water Section.
11. Memo No.118 dated 30th August 1935.
12. Special Notice No.R.T.1080 dated 23rd May 1935
13. Tappal Book bearing the acknowledgment for the receipt of the - Special Notice.
14. Sewage Farm Manager's memo dated 27th August 1935.
15. Letter No.R.T.190 dated 22/23rd August 1935 from the Revenue Officer addressed to Mr.Mohamed Sait.

(1) That he did not incur any disability under Section 12, clause 2 (e) of the Regulation VII of 1933.

This is dealt with in detail below under the several grounds of appeal.

(2) That he was not given any Special Notice as required by the Section calling

(2) This involves two points which it will be convenient to

(2) calling upon him to comply with any demand lawfully due under the Regulation or the bye laws or rules thereunder..

to consider separately.-

1st. That he was not given any Special Notice

2nd. That the Notice was not of a demand legally due.

Regarding the first point that he did not receive the Special Notice in question, kind attention is invited to the statement of the process server Ghouse Mohideen (Flag A) who was entrusted with the service of Special Notices to the Councillors from which it will be seen that the Notice was duly served upon him as required by the provisions of Section 185 of the Regulation. The point has been examined in detail in the Note of the Municipal Advocate (Flag B). Kind attention is also invited to the then Revenue Officer Mr. S. Siddappa's statement (Flag C) which shows how he was satisfied that the Notice had been duly served and that the Petitioner was fully aware of the Notice.

It might further be pointed out that on 20th August 1935, just a few days before the expiry of the period of three months given in the Special Notice, Mr. A. Sattar Sait, brother of the Petitioner sent a remittance of Rs. 510-1-9 together with a letter dated 19th/20th August 1935 (Flag D) to the Revenue Officer. In this letter he gave details aggregating the said amount of Rs. 510-1-9 remitted by him and also referred to two - other items of Rs. 23-4-0 (towards Site tax) and the - amount due towards water tax (Rs. 130/-) regarding which he contended the petitioner's liability

- which sums totalled together with the amount of Rs.27-0-0 that had been paid on behalf of the petitioner on 19-7-1935 and a sum of Rs.4-3-6 paid by the petitioner on 22-8-1935 -- tally exactly with the amount of Rs.694-9-3 specified in the Special Notice -- an amount which was not specified ordemanded in any other single notice of demand sent to the petitioner and * which therefore the Petitioner could not have known except through the Special Notice.

It has also to be observed that in his letter dated 20th August 1935 which accompanied the remittance, Mr.A.Sattar Sait stated that two sums of Rs.25-8-0 and Rs.16-0-0 were being " paid under protest ". These payments " under protest " of sums that had remained unpaid for a considerable time would have been unnecessary unless it was thereby sought to avert consequences that were known to be imminent.

The letter of the 20th August 1935 referred to above* was followed up by a letter from the petitioner himself to the Revenue Officer dated 22nd August 1935 and marked " Urgent " in red, asking "if there was anything more that had to be paid by him" and by yet another letter dated 24th August 1935 (Flag F) asking - " for a detailed statement of the dues if any that I have got to pay, as my brother states that he has paid in full settlement."

Flag E.

It is submitted that these letters written just before the expiry of the period of limitation are significant and are useful to indicate --- whether the Petitioner was or was not aware of of the Special Notice.

~~In these circumstances it seems surprising that the Petitioner should have chosen to put forth a contention that he was unaware of the receipt of the Notice under reference.~~

Regarding the 2nd point, namely that the Notice was not of a demand lawfully due: kind attention is invited to the report of the Revenue Officer (Flag G) and in particular to the Note of the Municipal Advocate which deals with this question in detail.

Section 77 (1) of the Municipal Regulation of 1933 lays down that " whenever the title of any person primarily liable for the payment of a tax imposed on any premises in the form of a rate on buildings, or lands or both to or over such premises is transferred and the person to whom the same is transferred -- both the transferer and the transferee-shall give notice of the transfer to the Municipal Council in the form either of - Schedule VIII or Schedule IX.

The " From " and " To " Registers - maintained at the Municipal Office as also the Khathe Transfer Petition Registers were all got examined and it was asertained that no such petition for the transfer of the title was ever received. The statement of the Clerks (Flag H) in this connection is also submitted. The Khathe-Demand Registers show that the name of the petitioner is yet being continued as Khathedar. In these circumstances, under Section 80, the Petitioner " in addition to any other liability which he incurs through such neglect, continues liable for payment of all taxes from time to time payable in respect of the said premises."

Non-payment of this one item would by

by itself be sufficient automatically to entail the disability contemplated in Section 12(2).

The Government Notification No. 773-5276 dated 29th June 1912 (Flag I) regarding the rules for the regulation of Water Supply to Mysore City, makes it clear that it is the owner of any premises that is held solely responsible for arrears of water charges - (vide rule 13 thereunder). The owner's liability would not be affected by the authorities --- receiving payment from any others. The Petitioner is and continues to be the Khathedar of the premises in question and bills for water charges have accordingly been regularly made out and sent to him except for second half-year of 1934-35 when it is understood that the bill was, in accordance with the instructions of the Vice-President, made out and sent to the Superintendent, Government Unani Hospital, Mysore. The statements of the Clerks regarding this matter are marked(Flag J, & Ja,) in the file.

The Petitioner in his capacity as Vice-President was himself in charge of the Water Revenue Section and this circumstance would appear to render his responsibility in this respect all the greater.

(3) That the alleged service of Special Notice is a matter of proof and there is nothing in the order to show that such a Notice was ever served.

(3) The Memo dated 30-8-1935 marked K in the file states that the Notices " were duly served on them on 24th May 1935."

(4) That the opinion of the Municipal Advocate upon which the President appears to have acted is itself an err and not sustainable. That the order declaring the petitioner

(4) The question whether a show-cause Notice should have been given to the Councillors that had incurred disability was considered both by the Municipal Advocate and by myself before the issue of the memo dated --

as having incurred a disability and thereby was deprived of this privileges as a Municipal Councillor is entirely an ex-parte one and no opportunity was ever given to the petitioner to show cause against the same.

dated 30th August 1935. The Municipal Regulation of 1933 does not appear to require that any such opportunity should be given to the disabled Councillors. On the other hand the terms under Section 12(e) make it clear that the disability occurred automatically the moment of default occurred, even if no Memo or order was issued to the effect that the disability had been incurred.

Kind attention is also invited in this comection to the ruling cited in page 60, Chapter II, Section 15 of the Bombay District Municipal Manual by Mr. A. E. Cumming (4th Edition) - headed " Enquiry and Notice to Councillor," according to which no such opportunity need be given. It would appear that it is only where special provision is made for the giving of such opportunity as in the Madras Act, or under other Sections of the Regulation that this procedure becomes necessary.

(5) That the Petitioner is not legally due any tax to the Mysore City Municipal Council.

(5) This has already been dealt with above.

(6) That according to practice and procedure observed, the taxes have all along been paid by Abdul Sattar Sait.

(6) It is not knwon what practice and procedure are referred to by the Petitioner. But in any case this would not seem to have any bearing on the points at issue in the case.

(7) That if any mistake arose in the calculation or in interpretation, Abdul Sattar Sait usually got the same rectified as soon as he got any instruction from the Municipal Council.

(7) This has been dealt with in the (6) above.

55

(8) That the President in this particular instance has acted in a manner to prejudice and put in danger the privileges of the Petitioner as an elected Municipal Councillor.

(9) That in any view of the case, the decision of the President cannot be supported.

(10) That the Petitioner submits to the kind consideration of the Government that for some time past, the relationship between the Present President and the Petitioner as Vice-President of the Mysore City Municipal Council, as officers functioning of the welfare of the Municipality, is somewhat strained.

vide infra.

Regarding items (8) & (10) it might be observed that, as stated in my letter No.G.T.547/Enc.3 dated 3rd September 1935 to Goverr ment, the question of issue of Special Notices and taking action under Section 12(2)(e) against Municipal Councillors in arrears had formed the subject for interpellations in the Council, and that Special notices were issued to no less than nineteen other Councillors in arrears, along with the Petitioner and the disability incurred by the petitioner and another Councillor was only the inevitable legal consequence of failure to pay up the arrears in full in time.

--

Action to fill up the vacancy will be stayed pending final orders of Government on the appeal petition.

The enclosures to your letter under reference are herewith returned.

The receipt of the records may kindly be acknowledged.

I have the honour to be,

Sir,

Your most obedient Servant,

M.V. Krishna Rao

..PRESIDENT.

Appendix F G–1]

SUBJECT

Section Pol
File No 24-35
Serial No

Diary No of letter replied to

No L/5964

To

The President, Cuttack

Madras

Sir

I am directed to acknowledge the receipt of your letter No Cuttack 21 dt. 9-9-35 along with its enclosures addressed to the Chief Secy to Govt

Yours

for Secy to Govt

General and Revenue Secretariat

( )

the *193*

Date of issue 10-9-35

Signed by Executive Officer

D No 1182

Received 10 Sept 1935

List of enclosures

Copied by Bn 10.9

Examined by

Proceedings of the Government of
H.H. the Maharaja of Mysore.

Read.-

Petition dated 5th September 1935 from Mr. Mahomed Sait, Mysore, appealing against the order of the President, Mysore City Municipal Council, declaring him to have been disabled from continuing as a Municipal Councillor on account of non-payment of certain taxes alleged to be due by him in accordance with a special notice issued to him in this behalf.

2. Correspondence ending with letter No.21 dated 9th September 1935 from the President, City Municipal Council, Mysore, submitting a report on the petition of Mr. Mahomed Sait with the connected records and stating that re-election proceedings have been stayed, as ordered, pending the disposal of the petition by the Government.

ORDER NO. L 2229 Enc Records by Report

DATED, BANGALORE THE 24-9-1935.

1. The two principal grounds urged in Mr. Mahomed Sait's petition are -

(1) that no special notice has been served on him as required by law &

(2) that no tax is legally due by him to the Municipality.

2. The records relating to the service of the special notice on Mr. Mahomed Sait show that Octroi Peon, Ghouse Mohiyuddin, took the notice to Mr. Mahomed Sait's house on the morning of 24th May 1935. The peon was told by a servant that Mr. Mahomed Sait was in his zanana. The servant undertook to take the notice to Mr. Mahomed Sait. He accordingly took it inside and returned after some time with the initials "A.R." in the delivery book. This is the evidence of service available. The President has held that there has been compliance with the requirements of Section 185 of the City Municipalities Regulation, which lays down that if the addressee is not found a notice may be served by tendering it to some adult male member or servant of the family.

3. In the circumstances set forth above, it cannot be said that Mr. Mahomed Sait could not be found and it was not correct on that basis to have dispensed with personal service. The mode of service indicated in Section 185, Cl.6 should not be resorted to until the serving officer has used all due and reasonable diligence to find the party and has failed to find him. Mr. Mahomed Sait was known to be in the house and lack of access to him was obviously only very temporary. He was the Vice-President of the Municipality and, could have been found even in the office of the President ~~The phraseology of Section 185 of the City Municipalities Regulation clearly shows what exactly is meant by the term that a man cannot be found.~~

~~stated therein that in such case~~ the ~~notice should be left at his~~ place of ~~abode~~, ~~meaning suggesting that what was~~ contemplated ~~was~~ a ~~case where~~ the whereabouts of ~~or the party was~~ not known. Even supposing that the position is as assumed by the President, it is not known who "A.R." is, whether he is an adult male member of Mr. Mahomed Sait's family or a servant of Mr. Mahomed Sait's family. These matters obviously were ~~facts~~ which should have been enquired into and determined when Mr. Mahomed Sait represented that he had not received the special notice.

4. Certain circumstances such as the part payment of the dues by Mr. Mahomed Sait's brother and enquiry by Mr. Mahomed Sait as to the arrears remaining unpaid have been referred to by the President to show that Mr.Mahomed Sait had knowledge of the issue of the special notice. The facts in question do not conclusively indicate any such knowledge, and in any case mere knowledge that a notice had been issued cannot dispense with the necessity of proper service of the notice or prove that he ~~had knowledge~~ was aware of the ~~terms~~ contents of the notice. The President has, however, referred to a statement made by the Revenue Officer Siddappa that Mr. Mahomed Sait once questioned him why he issued a special notice. This statement was not taken in the presence of Mr. Mahomed Sait nor has the latter ever been given a chance of offering his explanation, if any, about it.

65

5 In the foregoing circumstances, Government consider that the special notice cannot be held to have been served as required by law and that Mr. Mahomed Sait cannot, therefore, be treated as having incurred the disability mentioned in Section 12, Clause (2) (e) of the City Municipalities Regulation. The President's order is accordingly set aside.

RC 2393 5

Chief Secretary to ~~Government~~.

To

The President, City Municipal Council,
Mysore, returning the records.

(To be sent by Registered)

L 1930 Q 2116/35

Copy to Mr. Mahomed Sait with reference to his petition dated 3-9-1935.

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

Read:-

Petition dated 5th September 1935 from Mr.Mahomed Sait, Mysore, appealing against the order of the President, Mysore City Municipal Council, declaring him to have been disabled from continuing as a Municipal Councillor on account of non-payment of certain taxes alleged to be due by him in accordance with a special notice issued to him in this behalf.

2. Correspondence ending with letter No.21 dated 9th September 1935 from the President, City Municipal Council, Mysore, submitting a report on the petition of Mr.Mahomed Sait with the connected records and stating that re-election proceedings have been stayed, as ordered, pending the disposal of the petition by the Government

---:O:---

Order No. L 22 29 Case Records sent separately by Regd Post

Dated, Bangalore, the 24th September 1935

1. The two principal grounds urged in Mr Mahomed Sait's petition are:-

(1) that no special notice has been served on him as required by law, and

(2) that no tax is legally due by him to the Municipality

2. The records relating to the service of the special notice on Mr Mahomed Sait show that Octroi Peon, Ghouse Mohiyuddin, took the notice to Mr Mahomed Sait's house on the morning of 24th May 1935 The peon was told by a servant that Mr Mahomed Sait was in his zanana. The servant undertook to take the notice to Mr Mahomed Sait. He accordingly took it inside and returned after some time with the initials "A R " in the delivery book This is the evidence of service available The President has held that there has been compliance with the requirements of

of Section 185 of the City Municipalities Regulation, which lays down that if the addressee is not found a notice may be served by tendering it to some adult male member or servant of the family.

3 In the circumstances set forth above, it cannot be said that Mr Mahomed Sait could not be found and it was not correct on that basis to have dispensed with personal service. The mode of service indicated in Section 185, Cl(b) should not be resorted to until the serving officer has used all due and reasonable diligence to find the party and has failed to find him. Mr.Mahomed Sait was known to be in the house and lack of access to him was obviously only very temporary Being the Vice-President of the Municipality, he could easily have been found in the Municipal Office Even supposing that the position is as assumed by the President, it is not known who "A.R." is, whether he is an adult male member of the family or a servant of Mr.Mahomed Sait These obviously were matters which should have been enquired into and determined when Mr.Mahomed Sait represented that he had not received the special notice

4. Certain circumstances such as the part payment of the dues by Mr.Mahomed Sait's brother and enquiry by Mr.Mahomed Sait as to the arrears remaining unpaid have been referred to by the President to show that Mr Mahomed Sait had knowledge of the issue of the special notice The facts in question do not conclusively indicate any such knowledge, and in any case mere knowledge that a notice had been issued cannot dispense with the necessity of proper service of the notice or prove that he was aware of the contents of the notice The President has, however, referred to a statement made by the Revenue Officer Mr.Siddappa that Mr Mahomed Sait once questioned him why he issued a special notice. This statement was not taken in the presence of Mr Mahomed Sait, nor has the latter even been given a chance of offering his explanation, if any,

about it.

5. In the foregoing circumstances, Government consider that the special notice cannot be held to have been served as required by law and that Mr.Mahomed Sait cannot, therefore, be treated as having incurred the disability mentioned in Section 12, Clause (2) (a) of the City Municipalities Regulation. The President's order is accordingly set aside

Aswathappa

CHIEF SECRETARY TO GOVERNMENT

To

The President, City Municipal Council, Mysore,
returning the records

L 2230 dt 24/9/35

Copy to Mr Mahomed Sait with reference to his petition dated 3rd September 1935

hks.3